

WILMER CUTLER PICKERING
HALE AND DORR LLP
SONAL N. MEHTA (SBN 222086)
Sonal.Mehta@wilmerhale.com
950 Page Mill Road
Palo Alto, California 94304
Telephone: (650) 858-6000
Facsimile: (650) 858-6100

OMAR A. KHAN (*pro hac vice*)
Omar.Khan@wilmerhale.com
7 World Trade Center
250 Greenwich Street
New York, New York 10007
Telephone: (212) 230-8800
Facsimile: (212) 230-8888

JOSEPH TAYLOR GOOCH (SBN 294282)
Taylor.Gooch@wilmerhale.com
JOSHUA D. FURMAN (SBN 312641)
Josh.Furman@wilmerhale.com
1 Front Street, Suite 3500
San Francisco, California 94111
Telephone: (628) 235-1000
Facsimile: (628) 235-1001

Attorneys for Defendant
IONpath, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FLUIDIGM CORPORATION, A DELAWARE
CORPORATION; AND FLUIDIGM CANADA
INC., A FOREIGN CORPORATION,

Plaintiffs,

v.

IONPATH, INC., A DELAWARE
CORPORATION,

Defendant.

Case No. 3:19-cv-05639-WHA

~~PROPOSED~~ ORDER COMPELLING
FLUIDIGM TO PROVIDE A
SUPPLEMENTAL RESPONSE TO
IONPATH'S INTERROGATORY NO. 8
REGARDING EMBODYING
PRODUCTS

For the reasons stated at the June 18, 2020 discovery dispute teleconference, the Court hereby ORDERS Plaintiffs Fluidigm Corporation and Fluidigm Canada Inc. ("Fluidigm") to supplement their response to Defendant IONpath, Inc.'s ("IONpath") Interrogatory 8 to include limitation-by-limitation claim charts with Fluidigm's contentions as to how each version of Fluidigm's products are asserted to practice or embody each asserted claim of each patent-in-suit. Any version of any Fluidigm product not described in a limitation-by-limitation chart may not be relied upon in this litigation. Plaintiffs shall provide their amended response to IONpath's Interrogatory 8 on or before July 9, 2020. **Plaintiff is warned that such response, addressing the merits of plaintiffs' infringement and damages theories, will not be permitted to be filed under seal.**

The Court awards to Defendant IONpath its reasonable expenses incurred in making the motion, including attorneys' fees. IONpath shall provide to Fluidigm an accounting of such reasonable expenses, including attorneys' fees. The parties shall meet and confer in an attempt to reach agreement on the amount of reasonable expenses, including attorneys' fees to be awarded and shall submit a joint statement for an entry of reasonable expenses, including attorneys' fees once agreement is reached or setting forth each side's position if agreement cannot be reached. The parties shall provide their joint statement on or before July 23, 2020.

IT IS SO ORDERED.

Dated: June 23, 2020.



Honorable William H. Alsup
United States District Judge